

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.605/97

Tuesday, this the 18th day of January, 2000.

CORAM

HON'BLE MR A.M. SIVADAS, JUDICIAL MEMBER
HON'BLE MR G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

Vijayakumar.T, S/o Thankappan Pillai,
Plumber, LNCPE,
(Lakshmi Bai National College of Physical Education),
Trivandrum-Residing at Vadakkevilakathu Veedu,
Chanthavila, Kattayikonam,
Puthencode, Trivandrum-695 584.

...Applicant

By Advocate Mr K.C. Eldho.

Vs.

1. Sports Authority of India,
represented by Director General,
J.N. Stadium (Jawaharlal Nehru),
New Delhi.
2. Lakshmi Bai National College of Physical Education,
represented by Principal,
Karivattam, Trivandrum.

...Respondents

By Advocate Mr Govindh K. Bharathan, Sr.CGSC

The application having been heard on 18.1.2000,
the Tribunal on the same day delivered the
following:

O R D E R

HON'BLE MR A.M. SIVADAS, JUDICIAL MEMBER

Applicant seeks to quash A6, to direct the respondents to fix his pay in the scale of.1200-2040 which is the next higher scale of pay from the date on which he has completed 8 years' of service, and to pay him the arrears on such fixation.

2. The applicant along with one Unnikrishnan Pillai filed O.A. 1092/96 before this Bench of the Tribunal wherein it is stated that the applicants therein are entitled to be granted higher grade on completion of 8 years' service, that the first respondent admitted the position and granted

higher grade as per A2 and A3 therein, and that it is only just and proper that the pay scale is revised with higher scale consequent to A1 therein. So, it is quite clear that the relief sought in O.A.1092/96 and the relief sought herein are identical.

3. A5 is the copy of the order in O.A. 1092/96. It was directed in O.A. 1092/96 to revise A2 and A3 orders taking note of the position after the issuance of A1 orders therein.

4. Now the question is whether the direction has been complied with or not complied with.

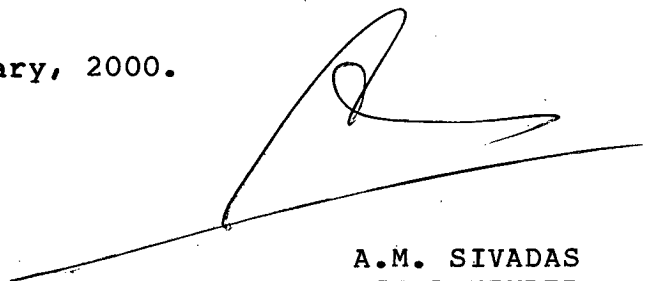
5. It is the admitted case of the applicant that A6, the impugned order, has been issued as per the direction contained in A5 order. If A6 is in compliance with the directions contained in A5 order, that is the end of the matter. If A6 is not in compliance with the direction contained in A5, the remedy is not to file a fresh O.A. for the same relief, but otherwise. The learned counsel appearing for the applicant submitted that as per A6, the applicant has got a fresh cause of action and thus the O.A. is maintainable. The cause of action is the same as in this O.A. as well as in O.A. 1092/96. What the applicant has done is that he has filed this O.A. for the very same relief that is sought in the earlier O.A. Successive applications for the same relief cannot be entertained.

6. We do not find any merit in the O.A. and it is accordingly dismissed.

Dated the 18th of January, 2000.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

LIST OF ANNEXURES REFERRED TO IN THE ORDER

A2, True copy of the order dt.16.11.95 in O.A. No.1428 of 1995 of this Hon'ble Tribunal.

A3, True jcopy of the Office order No.432/95 dt. 29.12.95 issued by the 2nd respondent to the applicant.

A5, True copy of the Office order in O.A. No.1092/96 dated 9.10.96 of this Hon'ble Tribunal.

A6, True copy of the Office Memorandum No.13(71)95-Admn dated 7.2.97 issued by the 1st respondent to the applicant.

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.605/97

Friday this the 17th day of August, 2001.

CORAM

HON'BLE MR. A.M.SIVADAS, JUDICIAL MEMBER
HON'BLE MR. G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

Vijayakumar.T.
S/o Thankappan Pillai
Plumber, LNCPE
(Lakshmi Bai National College of Physical Education)
Trivandrum, residing at
Vadakkevilkathu Veedu
Chanthavila, Kattayikonam
Puthencode, Trivandrum. Applicant

[By advocate Mr.K.C.Eldho]

Versus

1. Sports Authority of India
represented by Director General
J.N.Stadium (Jawaharlal Nehru)
New Delhi.
2. Lakshmi Bai National College of
Physical Education
represented by Principal
Karivattom, Trivandrum. Respondents.

[By advocate Mr. Govindh K Bharathan(rep)]

The application having been heard on 17th August, 2001,
the Tribunal on the same day delivered the following:

O R D E R

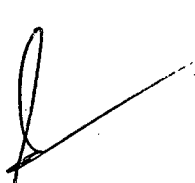
HON'BLE MR. A.M.SIVADAS, JUDICIAL MEMBER

Applicant seeks to quash A-6 and to direct the respondents to fix his pay in the scale of Rs. 1200-2040 which is the next higher scale of pay from the date on which he has completed 8 years of service with arrears.

2. Applicant was appointed as plumber as per A-1. He is working as plumber for the past one decade. As per the Bye-Laws of the 1st respondent, a plumber is entitled to the basic pay scale of Rs. 950-1500. He was placed in a lesser pay scale of Rs. 800-1150. He approached this Bench of the

Tribunal by filing OA No.1428/95. In that OA this Bench of the Tribunal directed the 1st respondent to consider the applicant's case and to take a decision. Pursuant to that as per A-3, he was given the scale of pay of Rs. 950-1500 with effect from 24.8.87. Before issuance of A-3 he was placed in the scale of pay of Rs. 950-1500 since he had completed 8 years of service in the pay scale of Rs. 850-1150/-. In view of A-3 he is entitled to the scale of pay of Rs. 1200-2400. Since he was not given the next higher pay scale on completion of 8 years service, he approached this Bench of the Tribunal alone with one Unnikrishnan Pillai by filing OA No.1092/96. That OA was disposed of directing the 1st respondent to revise A-4 order taking note of the position after the issuance of A-3 order. In pursuance of the directions contained in the order in OA 1092/96 A-6 the impugned order was issued. A-6 order is illegal. A-6 is issued in utter disregard to A-5. The finding in A-6 order to the effect that the post of plumber is not an isolated post but is a feeder cadre for promotion to the post of Headmistri/Motorman is without any basis.

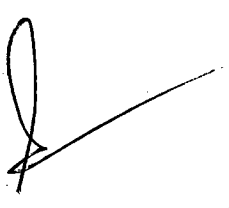
3. Respondents resist the OA contending that the applicant was appointed as plumber in the scale of Rs. 800-1150 as per order dated 1.9.87. The said scale of pay was revised to Rs. 950-1500 with effect from 5.9.92. Applicant could claim the scale of Rs. 950-1500 only with effect from 5th September 1992 in terms of R-1(a). Second respondent misinterpreted R-2(b) orders and granted scale of pay of Rs. 950-1500 from 24.8.97 as per A-3 order which is not in consonance with the order of appointment issued in the year 1987 and subsequent revision as



per Recruitment Rules in September, 1992. When A-5 order was communicated, it was detected that the second respondent issued A-4 order wrongly and a further wrong order A-3. A-6 brings out the correct position. It is proposed to correct the administrative error by granting the pay scale to the applicant but further action has been deferred in view of the pendency of this OA. Time bound promotion once in the career on completion of 8 years of service is to be given only to the holders of such isolated posts which are not feeder cadres for another higher post and which have no promotional avenues. The post of plumber is a feeder post for the next higher post of Head Mistry/Motorman.

4. The applicant is claiming the scale of pay of Rs. 1200-2400 which is the next higher scale of the scale in which he is now placed. There is no dispute that the applicant was appointed as a plumber as per A-1. It is also the admitted case of the applicant that he was initially placed in the scale of pay of Rs. 800-1150. As per A-3 and A-4 he was placed in the pay scale of Rs. 950-1500 with effect from 24.8.87.

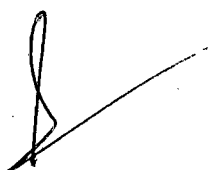
5. Learned counsel appearing for the applicant submitted that by virtue of MA-1, he was entitled to get one time bound promotion immediately prior to the commencement of MA-1 and the one time bound promotion scheme has been discontinued only with effect from the date of commencement of MA-1. MA-1 shows a statement showing the details of time bound promotion. Time Bound Promotion to the plumber in the scale of Rs. 950-1500 is for those who were originally granted the scale of pay of Rs.



800-1150. Applicant has been granted the scale of Rs. 950-1500 from the initial stage itself.

6. Based on MA-2, The Sports Authority of India (Hostel & Catering) Staff Recruitment Rules, 1992, the learned counsel appearing for the applicant submitted that all the employees working on a regular basis on any of the post contained in the schedule to the said rules will be deemed to have been appointed under the rules with effect from the date of initial appointment to the post and, therefore, the applicant was entitled to the scale of Rs. 950-1500 from the very beginning. it is to be noted that these rules are of the year 1992 and the applicant was not governed at the time of his appointment by MA-2 rules. The submission made by the learned counsel for the applicant is based on Rule 4 (b) of MA-2. That does not go to the extent of saying that all employees working on regular basis will be entitled to get the scale of pay of Rs. 950-1500 from the date of their initial appointment.

7. One of the grounds raised in the OA is that the first respondent has issued A-6 the impugned order in utter disregard to A-5 wherein there is a categorical direction to the first respondent to revise A-4 order in the light of A-3 order. This OA was once disposed of by this Bench of the Tribunal. The applicant took up the matter before the High Court by filing OP No.6831/2000. The High Court in the judgement in the said OP has stated that there is no positive direction to revise A-2 and A-3 as per A-5 order.



8. A-6 the impugned order says that since the post of plumber has promotional avenues, giving time bound promotion to the applicant was wrong. Though applicant says that he is holding an isolated post, from the materials made available, it is clearly seen that it is not an isolated post and he has got promotional avenues to the post of Head Mistry/Motorman. The one time bound promotion is available only to those who are holder of an isolated post. Since the applicant is not holding an isolated post as promotional avenues are available, granting of one time bound promotion to him as contended by the respondents was wrong. A-6 proceeds on that basis. Now they have found out the mistake and they have realized what is the correct position. The authority who has issued A-6 has clearly stated that the order issued by the Principal dated 29.12.95 in A-5 was totally wrong and as the post of plumber is not an isolated post the applicant is not entitled to time bound promotion to the next higher scale. This stand of the authority concerned taken in A-6 is only to be upheld. That being the position there is no reason to interfere with A-6.

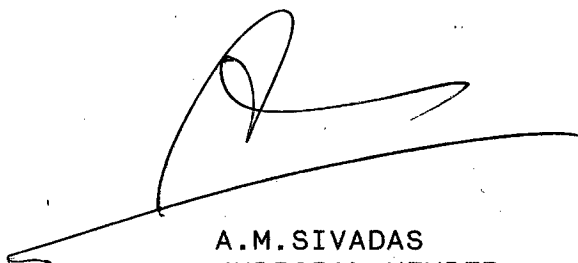
9. Accordingly OA is dismissed.

Dated 17th August, 2001.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

aa.



A.M. SIVADAS
JUDICIAL MEMBER